

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Spancion LLC
915 Deguigne Dr.
Sunnyvale, California 94085
(Santa Clara County)

ID No. CAT 000 022 324

Respondent.

Docket HWCA 2006-1268

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Spancion LLC (Spancion) (Respondent), corporate address 915 Deguigne Drive, Sunnyvale, California, 94085, enter into this Consent Order and agree as follows:

1.1 Site. Respondent generates, handles, treats, and stores hazardous waste at 915 Deguigne Drive, Sunnyvale, California, 94085 (Site).

1.2. Inspection. The Department inspected the Site on May 22, 2006.

1.3. Generator. The Respondent generates the following hazardous wastes: corrosive waste, lab pack waste, copper electroplating waste, and solvents.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5. Full Settlement. By their respective signatures below, the Parties agree that this Order, and all of terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations

alleged below. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either the Respondent(s) or the Site, except to the extent provided in this Order.

1.6. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.7. Admission. Respondent admits the violation described below.

VIOLATIONS ALLEGED

2. The Department alleges the following:

2.1. Respondent violated California Code of Regulations, title 22, section 66265.192(h)(1) by failing to reassess two Conditionally Authorized (CA) tank units used to neutralize D002 Resource Conservation and Recovery Act (RCRA) hazardous waste. Each unit is used for the same neutralization process at different locations onsite, to treat corrosive effluent from semiconductor processing (mainly wafer stripping and etching). The first and only time these tank systems were assessed was in 1993. Both tank units should have been reassessed every five years, i.e., in both 1998 and 2003.

SCHEDULE FOR COMPLIANCE

3. The violation described in section 2.1 has been adequately corrected or addressed and no further action is required of the Respondent with respect to this violation.

3.1. Submittals: All submittals from Respondent pursuant to this Order shall be sent to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

3.2. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

3.3. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.4. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.5. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

3.6. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this

Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.7. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

3.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.10. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.11. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

OTHER PROVISIONS

4.1. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.2. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.3. Integration. This agreement constitutes the entire agreement between the Parties and may not be amended, supplemented, or modified, except by a writing duly executed by the Department and specifically referencing this document by title and docket number, or as otherwise provided in this Order.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

PENALTY

5.1. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$26,150. Respondent's check shall be made

payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

EFFECTIVE DATE

6. The effective date of this Order is the date it is signed by the Department.

Date November 16, 2006

Original signed by John Caffall
Mr. John Caffall, Director of Site Operations
Spancion LLC

Date November 17, 2006

Original signed by Sangat Kals
Sangat Kals, Ph.D., Section Chief
State Oversight and Enforcement Branch
Department of Toxic Substances Control